

**Middleport Community Input Group
Meeting at Masonic Lodge Hall – Part I Meeting Summary
June 19, 2012 – 5:30 to 7 p.m.**

In Attendance:

Bill Arnold – CIG Chairman/Resident	Pat Cousins – Resident
Elizabeth Storch – Resident	Bettye Hartwell – FMC
Dick Owen – Resident	Brian McGinnis – FMC
Herb Koenig – Resident	Wai Chin Lachell – AMEC
Janet Lyndaker – Resident	Erin Rankin – ARCADIS
Dick Westcott – Resident	Alyssa Cruikshank – AMEC
Christa Lutz – Resident	Syd Havelly – FMC
Jennifer Bieber – Resident/Town of Royalton	Mike Hinton – NYSDEC
Gary Peters – Resident	Andy Twarowski – FMC
Vicky Demmin – Resident	Bob Carr – Carr Marketing Communications
Henry Charache – Resident	Jim Ward – State Sen. Maziarz’s Office
Julia Maedl – Resident	Matthew Bradfuhrer – U.S. Rep. Hochul’s Office
Rebecca Hinkson – Resident	Dan Watts – NJIT/MCIG
Richard Anderson – Resident	Ann Howard, RIT – Facilitator
	Jim Pasinski – Meeting Notes

1. Welcome and Introductions; Agenda Review

- A. Howard began the meeting and led introductions.
- A. Howard reviewed the agenda and explained the format of the meeting.
- B. Arnold stated that they wanted to use this meeting to communicate with FMC and use next week’s scheduled Agencies public meeting to communicate with the government Agencies.

2. FMC Update

- B. McGinnis noted that he felt during the June 2011 Agencies public meeting, the Middleport Community Input Group (MCIG) did a good job expressing their views to government Agencies and stated that the group should be commended for their efforts.
- B. McGinnis stated that they would like to review a few items at this meeting surrounding the Agencies draft Statement of Basis (SOB) and the Agencies proposed Corrective Measure Alternative (CMA). He noted that a variety of handouts have been provided to meeting attendees.
- B. McGinnis stated that the FMC review tonight will focus on section 8 of the draft SOB which includes the Agencies proposed remedy.
- B. McGinnis stated that FMC is still evaluating the draft SOB from the Agencies and trying to determine what it means to both FMC and the Middleport community. He noted that the draft SOB was received on June

14, 2012 and stated that FMC plans to submit formal comments on the document.

- B. McGinnis stated that the Agencies are proposing a new alternative, known as CMA #9. He noted that CMA #9 mirrors in various ways the CMA #2 that was presented in the May 2011 Draft CMS Report and the Agencies state it employs some flexibility with respect to the 20 ppm arsenic soil cleanup level. He stated that the Agencies are taking public comments on the draft SOB and will do so until July 30, 2012 and at their public meeting scheduled on June 27, 2012. He noted that after the public comment period closes the Agencies are expected to review all comments and make a final decision on the CMA.
- B. McGinnis noted that FMC proposed CMA #3 in the May 2011 Draft CMS Report. He reviewed some of the differences between CMA #3 and CMA #9. He noted that CMA #9 includes a cleanup level of 20 ppm on a point-by-point basis while CMA #3 includes a cleanup level of 20 ppm on average with a 40 ppm maximum. He further noted that CMA #9 includes remediation of the non-remediated portion of the Roy-Hart schoolyard and un-remediated sections of Culvert 105.
- W. Lachell noted that FMC proposed excavating Culvert 105 based on the soil contamination levels and that the Agencies want the entire pipe area excavated and replaced regardless of any detected soil contamination because the Agencies believe that it cannot be determined if the pipe had leaked in the past. She further noted that the total length of pipe that the Agencies are requesting be replaced is 4,100 feet, which involves replacing about 3,000 feet more than what has already been done.
- B. McGinnis stated that the draft SOB proposes cleanup of 181 properties and includes more than 220,000 cubic yards of soil and target completion of the remediation in five (5) years. He noted that FMC estimates the project length to be ten (10) years.
- W. Lachell noted that FMC's estimate also assumes favorable weather conditions throughout the May through October construction season.
- W. Lachell stated that it takes longer for crews to excavate residential properties than open fields because of space constraints, the equipment used and working around utility lines and pipes. She noted that if crews were working in open fields they could just excavate and haul.
- B. Arnold stated that he tended to believe FMC's estimates over the Agencies, and that the length of time could be potentially longer. He based that assumption on the length of time it took to clean two building lots last fall in an ICM. Using a simple multiplication and not allowing any difference in time to remediate residential properties over an empty building lot, it would take 13.9 years to do 181 properties.
- W. Lachell stated that FMC examined a recent EPA soil cleanup involving lead in the village of Depew. She noted that in that project residents' lawns were left as dirt and mud at the end of the construction season, where as FMC's estimated time frames assumes that properties would be re-sodded before the end of the construction season.

- W. Lachell stated that in terms of scheduling (e.g., 10 year estimated construction time), FMC does not want to shut down the entire village to expedite the construction schedule and she does not think it is feasible that the project could be completed in five years.
- B. Arnold stated that shutting down the entire village to excavate multiple neighborhoods at one time would be a nightmare.
- B. McGinnis stated that the draft SOB includes FMC's proposed CAMU but he noted that the CAMU still must go through an approval process with technical, legal and timing issues still to be determined.
- B. Arnold noted that, as a group, the MCIG has been opposed to the idea of a CAMU on the FMC Plant Site. He noted that the group's opposition is not for technical reasons but rather because of the location and the aesthetic issues the MCIG feels a CAMU would bring with it. He stated that it appears to him the Agencies are approving the CAMU based on technical terms despite the group's opposition.
- B. McGinnis noted that FMC had created charts which compare CMA #3 and CMA #9 and meeting attendees could review those charts during the break in the meeting. Among the comparisons, he noted, was CMA #9 requiring the cleanup of 181 residential properties while CMA #3 includes 153 residential properties but a lot less excavation on many. He stated that color-coding on the charts shows the difference in the disruption to the community between the two alternatives.
- B. Arnold stated that it is a nightmare to think about the noise, dust, traffic and impact to business with CMA #9.
- D. Westcott stated that he did not see anywhere in the draft SOB where village infrastructure is factored in. He questioned who would pay for repair to village streets that would be caused by the truck traffic. He noted that damage to Vernon Street from that ICM and stated that the village cannot wait another 20 years for Vernon Street to be repaired.
- B. McGinnis stated that FMC would have to meet with the village board once the Agencies select a final alternative. He stated that FMC recognizes the potential issues and the concerns the village has and they will need to discuss them.
- In response to a question, B. McGinnis stated that FMC has been and remains ready, willing and able to implement CMA #3. He said FMC was ready a year ago and is ready today for CMA #3 and the company feels it remains the best alternative.
- B. McGinnis stated that now that the Agencies have released their draft SOB and scheduled the public meeting, this is the last opportunity for the MCIG and the community to have their voice heard. He stated that, in addition to the Agencies, residents can include any elected officials in their written comments, including U.S. Rep. Kathy Hochul, State Sen. George Maziarz and Assemblywoman Jane Corwin, as well as the Governor's office. He stated that residents can let their elected officials know how they feel.

- B. Arnold stated that after reading the Agencies recently submitted Responsiveness Summary from the June 2011 Agencies public meeting, his initial reaction was that sending comments to the Agencies was a waste of time. He stated that citizens' individual comments and the MCIG's comments were not addressed. In general, Agencies responses are unresponsive, evasive and in some instances miss the point of the original comment.
- B. Arnold stated that the MCIG requested more time to prepare for the June 27, 2012 Agencies' public meeting but the Agencies refused to move the date back. He stated that in his opinion the Agencies do not care, do not listen and the group's work appears to not be adequately considered.
- B. McGinnis stated that FMC encourages the MCIG and residents to continue to submit comments and to include their elected officials.
- B. Arnold stated that the community residents need to urge their elected officials to put their foot down and force the Agencies to listen to and understand the concerns of the community. He stated that the community needs its elected leaders to put pressure on the Agencies. It appears the Agencies answer to no one; they do what they like regardless of how it impacts anyone else. Senator Maziarz got involved in trying to move the public session to the second week in July to allow more time to prepare, but the Agencies went ahead anyway.
- In response to a question, B. McGinnis stated that FMC will submit formal comments to the Agencies on their draft SOB and make their opposition known. He noted that FMC will need to wait for the final SOB to be released before determining their next steps. He stated that, depending on the alternative chosen by the Agencies, the project team will give their opinion to FMC management and they will decide the next steps.
- W. Lachell stated that FMC has been continually attempting to engage the Agencies to talk to them.
- W. Lachell stated that FMC's current consent order with the Agencies does not cover design and implementation of a CMA and a new consent order is needed. B. McGinnis stated that FMC has been requesting a new consent order from the Agencies for the past two years and they have yet to see one.
- A resident asked if all necessary steps fall into place, when FMC would be ready to start remediation work in the village. In response, B. McGinnis stated FMC would need one year of design work and would need to talk to all residents whose property would be worked on, regardless of the remedy selected. He stated that it is reasonable to expect 2015 as the nearest shovel-ready date.
- In response to a resident question about the Agencies idea of what "flexibility" means, W. Lachell stated that it is likely intended to allow a few locations to have soil arsenic levels above 20 ppm but she noted that the Agencies gave no details about that.

- B. Arnold stated that there is vagueness surrounding the definition of flexibility in CMA #9. It is not clear what “flexibility” means. How many points above 20 PPM and how many total points would be allowed.
- W. Lachell stated that the 2007 ICM on Park Avenue was performed at a 20 ppm cleanup level with flexibility but FMC does not think there was any significant difference from the 2003 ICM.
- A resident stated that regardless of what the Agencies claim about attempting to save residents trees, they will all be gone. The resident stated that there is no sense in the Agencies draft SOB.
- A resident stated that property owners’ trees will be removed and they do not trust the Agencies to be at all flexible.
- A resident stated that what is happening in Middleport is government agencies at their worst and the only end will be for property owners to say no when approached about remediation on their land.
- In response to a question, B. Arnold stated that the Agencies have no ability or authority to condemn a property that is not remediated, which some residents are worried about.
- B. McGinnis stated that the Agencies have stated that if a property owner refuses to grant FMC access to remediate their property, FMC will be required to send a letter to the property owner on an annual basis requesting access. He stated that FMC also will be required to provide financial assurance for every property that could potentially require remediation in the future.
- A resident stated that they let FMC clean up an empty lot on the residents’ property in 2011 so a house could be constructed. The resident stated that they waited eight years for the project to be completed. The resident noted that the numbers on their property were very similar to the Gasport background study properties. The resident stated that there was a red flag on their property only because it was in Middleport. If the property was in another location it would not matter. The resident stated that someone in Gasport could build if they had similar numbers. The resident stated that it is mind-boggling how disruptive this project is. The resident stated that this issue has been going on for more than 20 years and if the issue was really a health matter something would have been done by now. The resident stated that people will likely have more arsenic around a deck with treated lumber or in a peach tree than there is in the ground in Middleport.
- A resident stated MCIG members comments are consistently ignored by the Agencies. The resident stated that phytoremediation studies showed that plants and shrubs do not take up significant arsenic. The resident stated that the Agencies have ignored their comments previously and are now even linking studies of arsenic in water (not site-related) to arsenic in soil in Middleport. The resident stated that there is not a water arsenic issue in the air deposition study area in Middleport.
- A resident stated that their property tested high for soil arsenic contamination and it was in a flood plain. The resident stated that they

grew up in Middleport and has lived in the village their entire life and they are not worried about arsenic. The resident stated that they bought their property for the trees and not for a field. They fear that with remediation the land will be left a field with no trees. The resident stated that they feel the contamination on their property was caused by farming activities, not FMC.

- In response to a question, W. Lachell stated that it is likely that the approach the Agencies select for the Air Deposition Area will likely be the same approach that will be used for all other study areas.
- A resident stated that an alternative would be to work directly with FMC on a clean-up plan for their property and leave the Agencies out of it but FMC did not like that option. They would prefer not to do part of a property only to have to go back sometime in the future to do the rest.
- A resident stated that tree roots on properties are going to be damaged by large pieces of equipment that will be used simply because of the weight of the equipment running over the root zone compacting the soil. The resident stated that property owners will need to assume that everything on their property will be affected.
- A resident stated that FMC should be left alone and the Agencies should back off.
- In response to a question, B. McGinnis stated that FMC submitted a CMS workplan on Tributary One to the Agencies in July 2011 and they continue to await comments on that plan.
- In response to a question, B. McGinnis stated that FMC will attempt to accommodate each property owner to the best of their ability on each of the projects.
- A resident stated that excavation will leave residents with a different property in the end because the best soil for growing also contains elevated levels of arsenic and any soil FMC uses will need to meet strict agency requirements.
- In response to a question, W. Lachell stated that if a resident declines remediation but their neighbor accepts it, FMC will have to continue to monitor that neighbor's property, to make sure there is no re-contamination, so long as access is granted.

3. Review Next Steps

- B. McGinnis stated that FMC does not know when the Agencies will make a final SOB available.
- A. Howard noted that while FMC is held to timetables, the Agencies do not have any timetables to submit documents or responses.
- B. Arnold stated that while uncertain, he has gotten the impression that if enough residents refuse remediation, the Agencies might reconsider the CMA they select.

THE NEXT MEETING OF THE MCIG WILL BE HELD ON JULY 11, 2012 AND WILL BE A MCIG-ONLY SESSION. ALL REGULAR MEETINGS WILL BE HELD FROM 5:30 to 8 P.M. AT THE MASONIC LODGE.